

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 JUSTIN JAMES EDMISTEN,

Case No. 2:17-cv-01343-APG-PAL

5 Plaintiff,

ORDER

6 v.

7 LUSCH et al.,

Defendants.

8
9 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by
10 a former county inmate. On March 23, 2018, this Court issued an order directing Plaintiff
11 to file his updated address with this Court within 30 days. (ECF No. 3 at 1). The 30-day
12 period has now expired, and Plaintiff has not filed his updated address or otherwise
13 responded to the Court's order.

14 District courts have the inherent power to control their dockets and "[i]n the
15 exercise of that power, they may impose sanctions including, where appropriate . . .
16 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
17 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
18 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
19 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance
20 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
21 failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856
22 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
23 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
24 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
25 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
26 failure to comply with local rules).

26 In determining whether to dismiss an action for lack of prosecution, failure to obey
27 a court order, or failure to comply with local rules, the court must consider several factors:
28 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to

1 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
2 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
3 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
4 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

5 In the instant case, the Court finds that the first two factors, the public's interest in
6 expeditiously resolving this litigation and the Court's interest in managing the docket,
7 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
8 in favor of dismissal, since a presumption of injury arises from the occurrence of
9 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
10 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
11 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
12 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
13 the court's order will result in dismissal satisfies the "consideration of alternatives"
14 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
15 at 1424. The Court's order requiring Plaintiff to file his updated address with the Court
16 within 30 days expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff fails to timely
17 comply with this order, the Court shall dismiss this case without prejudice." ECF No. 3 at
18 2. Thus, Plaintiff had adequate warning that dismissal would result from his
19 noncompliance with the Court's order to file his updated address within 30 days.

20 It is therefore ordered that this action is dismissed without prejudice based on
21 Plaintiff's failure to file an updated address in compliance with this Court's March 23, 2018
22 order.

23 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1)
24 is denied as moot.

25 It is further ordered that the Clerk of Court shall enter judgment accordingly.

26 Dated: May 2, 2018.

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28 UNITED STATES DISTRICT JUDGE